

the top structure comprising a top wall, an integral recessed portion, an upwardly extending first fitting, and an upwardly extending chime; the top wall, the recessed portion, the first fitting, and the chime all integrally molded; the closure engageable with the second fitting to secure the closure in place on the drum, the chime extending above the closure when the closure is secured on the drum insert, the height of the chime sufficient to allow a closure to extend  $1 \frac{1}{4}$  inches above the top of the fitting and be below the top edge of the chime.

12. The combination of claim 11, wherein the recessed portion is localized around the first fitting.

13. The combination of claim 11, wherein the recessed portion extends substantially throughout the top wall.

14. The combination of claim 11, wherein the closure comprises a vent outlet and a vent valve for relieving pressure within the drum.

15. The combination of claim 11, wherein the first fitting extends from the recessed portion a distance not more than substantially one half the vertical distance between the recessed portion and the top edge of the upwardly extending chime.

REMARKS

In response to the Office Action mailed March 31, 2002, claims 1, 5 and 6 have been amended. Claims 1-15 remain pending. Reconsideration of the application is respectfully requested.

Amendments to the Specification and Drawings

Various amendments to the specification and Figures 8 and 9 of the drawings have been made to correct typographical errors and to further clarify the claimed invention. No new matter has been introduced by these amendments.

35 U.S.C. § 103 Rejections

Claims 1, 3-6, 8-11 and 13-15 were rejected under 35 U.S.C. 103 as being unpatentable over U.S. Pat. No. 5,217,142 to Schutz. Specifically it was said that the particular dimensions claimed would have been obvious to one or ordinary skill in the art based on the construction of the Schutz 142' device, as motivated by the intended use. Further it was said that the employment of a vent valve in the vent hole device of Schutz 142' would have been obvious to one of ordinary skill in the art, as would the employment of a cover over the vent valve and vent outlet.

It should be noted initially that claim 1 has been amended to correct a typographical error in the claimed range of distance from the recessed portion to the top of the first fitting and to conform to the limits of the range as recited in the specification. This amendment is not intended as a substantive narrowing amendment.

Applicant respectfully traverses this rejection. In order for a claimed invention to be rendered obvious in view of a given reference or combination of references there must be some suggestion or motivation, in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings. The Schutz 142' reference, which is the primary and only reference upon which this rejection is based, does not teach or suggest all of the claim limitations contained in the independent claims. First, the Schutz 142' reference does not teach or suggest the desirability of a drum having a recessed portion and with a fitting position such that, when a closure is installed

on the fitting, the closure does not extend above the top edge of the chime of the drum, thereby allowing the chime to serve as protection for the closure during stacking and handling of drums. In fact, FIG. 1 of Schutz 142' shows a drum wherein the fittings themselves stand above the top edge of the chime. In FIGs. 3, 7, 14 and 15 the top of the fitting is shown slightly below the top edge of the chime but at an insufficient distance to allow the installation of a closure so that all portions of the closure remain below the top edge of the chime as required by each independent claim in the present application.

Further, each of independent claims 1, 6 and 11 require a plastic molded drum having an integrally molded top structure, cylindrical wall, and bottom structure. In contrast, the Schutz 142' reference teaches a drum having a separate injection molded lid, and makes no mention of the possibility or desirability of an integrally molded top structure.

Also submitted herewith as further evidence of the unobviousness of the Applicant's invention are Rule 132 declarations setting forth facts related to the secondary considerations of commercial success and copying by competitors. As set forth in the Brettingen declaration, the Entegris drum is a commercially successful product owing, at least in part, to the integral extended chime features as claimed in the present application. In addition, and as further set forth in the Brettingen and Christensen declarations, the claimed features of the drum of the present application have been copied and incorporated into a drum made by a competitor.

Thus, Schutz 142' does not teach or suggest all of the limitations in each of the independent claims as is required for a *prima facie* case of obviousness. In view of this, and in further view of the additional evidence submitted showing the unobviousness of the claimed invention, Applicant respectfully requests that the Examiner withdraw this rejection.

Next, claims 2, 7 and 12 were rejected under 35 U.S.C. 103 as being unpatentable over Schutz 142' in view of Dubois, et al. '306. In response, Applicant submits that the cited claims depend from independent claims that have, as discussed above, been demonstrated to be

unobvious over the art. Applicant respectfully requests that the Examiner withdraw this rejection.

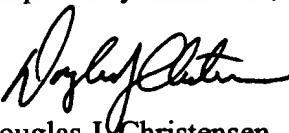
35 U.S.C. § 112 Rejections

Claims 5 and 6-10 were rejected under the second paragraph of 35 U.S.C. 112 for being indefinite, in that the terms "the handle" in claim 5, and "the second fitting" in claim 7 lack proper antecedent basis. In response, Applicant has amended the referenced claims to provide proper antecedent basis for these terms, and now respectfully requests that the Examiner withdraw this rejection.

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

In the event that the Examiner deems the application not to be in allowable condition, Applicant earnestly solicits a telephonic interview with the Examiner. In light of Applicant's previously unsuccessful attempts to contact the Examiner to arrange such an interview, Applicant respectfully requests that the Examiner telephone the undersigned to indicate availability for an interview.

Respectfully submitted,



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Application No. 09/960,606

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Douglas J. Christensen



ATTACHMENT  
REDLINED AMENDMENT

Specification As Amended

Please substitute the following amended paragraph(s) and/or section(s):

Page 6, line 24, please delete the word "h2" and insert in its place "h1".

Page 6, line 28, please delete the word "h4" and insert in its place "h2".

Page 7, line 3, please delete the word "h2" and insert in its place "h4".

Page 7, line 5, please delete the word "h2" and insert in its place "h4".

Page 7, line 6, please delete the word "h4" and insert in its place "h2".

Page 7, line 6, please delete the word "h2" and insert in its place "h4".

Claims As Amended

Please substitute the following amended claims for those currently pending:

1. [Once Amended] A combination plastic molded drum, and closure, the plastic molded drum comprising a cylindrical wall, a top structure, and a bottom structure; the top structure, the cylindrical wall, and the bottom structure all integrally molded;

the top structure comprising a top wall and a chime having a top edge extending circumferentially around, upwardly, and radially outward with respect to said top wall, the top wall comprising an integrally molded recessed portion, the top structure further comprising an upwardly extending first fitting integrally molded with the recessed portion and extending therefrom, the first fitting having a first neck portion,

wherein the distance from the recessed portion to the top of the first fitting is about 1 to 1 1/4 [14] inches and wherein the distance from the recess portion to the top of the top edge of the chime is 1 1/2 to 2 1/4 inches; and the recessed portion positioned such that the first fitting, and the closure do not extend above the top edge of the chime.

5. [Once Amended] The combination of claim 4 further comprising a cover extending over [the handle,] the vent outlet, and vent valve.

6. [Once Amended] A combination blow molded plastic drum, and closure, the plastic molded drum comprising, a cylindrical wall, a top structure, and a bottom structure, the top structure and the cylindrical wall integrally molded;

the top structure comprising a top wall, an integral recessed portion, an upwardly extending first fitting extending from the recessed portion, and an upwardly extending chime; the top wall, the recessed portion, the first fitting, and the chime all integrally molded;

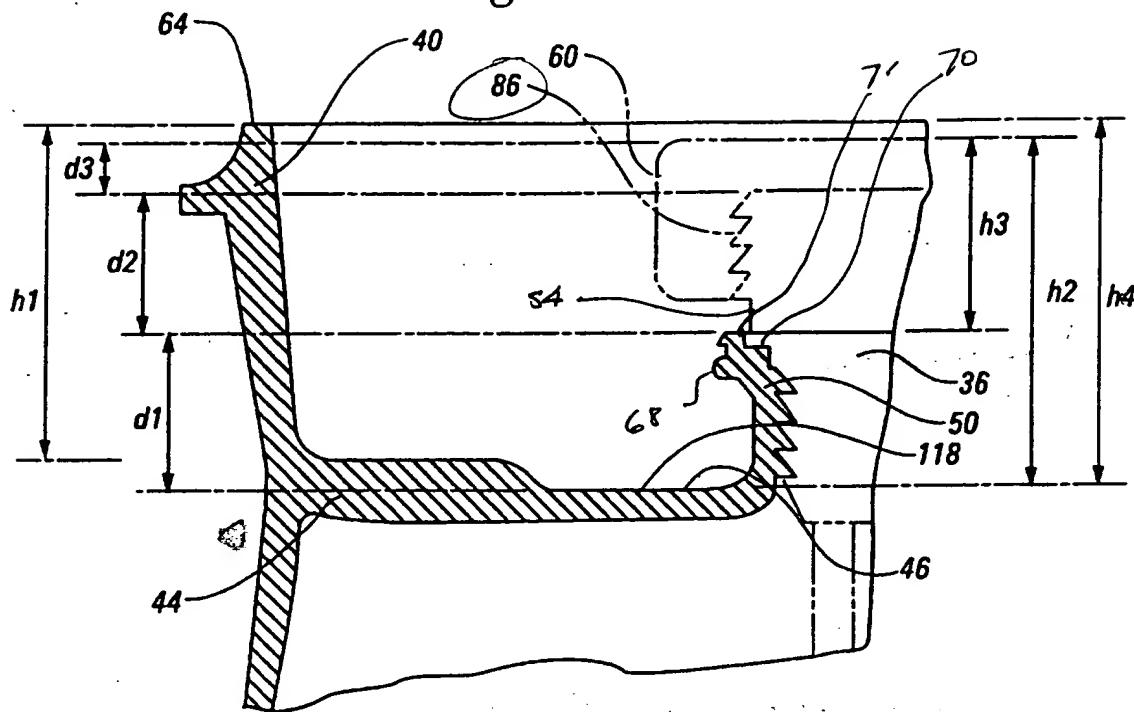
the closure engageable with the first [second] fitting to secure the closure in place on the drum; and

the chime extending above the closure when the closure is secured on the drum insert, the chime extending about the recessed portion 1  $\frac{1}{2}$  to 2  $\frac{3}{4}$  inches.



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*Fig. 8*



*Fig. 9*

